

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Federal Communications Commission  
Office of the Secretary

In the Matter of  
Billed Party Preference  
for 0+ InterLATA Calls

CC Docket No. 92-77

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FILE

REPLY COMMENTS OF PHONETEL TECHNOLOGIES, INC.  
ON PROPRIETARY CALLING CARDS AND 0+ ACCESS

PhoneTel Technologies, Inc., ("PhoneTel"), by its attorneys, hereby submits its reply comments on the Commission's proposals regarding proprietary calling cards and 0+ access.

I. INTRODUCTION

On May 8, 1992, the Commission issued its notice of proposed rulemaking in this proceeding wherein it solicited comment on a proposal to implement a system of billed party preference as the means for selecting carriers to complete operator-assisted calls.<sup>1/</sup> In the Notice, the Commission also sought comment on a proposal for restricting the use of so-called "proprietary" calling cards while the Commission considers whether to implement billed party preference. Specifically, the Commission proposed that interexchange carriers ("IXCs") issuing proprietary calling cards, including, for example, AT&T's Card Issuer Identifier ("CIID") cards, be required either to allow those cards to be validated by competing carriers or that their use be limited to access code dialing.

1/ Billed Party Preference for 0+ InterLATA Calls (Notice of Proposed Rulemaking), FCC 92-169, released May 8, 1992 ("Notice").

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The positions expressed in the initial comments are largely predictable. AT&T, not surprisingly, continues to argue that it should be allowed to issue cards in the CIID format, to limit their acceptance to itself and certain other carriers approved by it (i.e., the nation's local exchange carriers), and that it would be inconvenient for consumers if the Commission were to require that those cards be used only by dialing carrier access codes. Most of AT&T's IXC competitors -- including the largest <sup>2/</sup> and many smaller carriers <sup>3/</sup>, support the Commission's proposal and have argued that 0+ dialing does indeed belong in the public domain. Another major IXC -- Sprint Communications Company -- does not support 0+ in the public domain. Instead, it has suggested that the Commission prohibit IXCs from paying commissions on calls charged to proprietary calling cards.

Several local exchange carriers ("LECs") oppose the concept of 0+ in the public domain. Their opposition is based, not on public interest grounds, but on their candid recognition that a requirement that CIID code calls be initiated only by dialing access codes would cause them to lose revenues for the many intraLATA calls now originated by dialing 0+ and charged to CIID cards -- calls which are routed to those LECs automatically just as they were during the predivestiture era when AT&T and the

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<sup>2/</sup> See Comments of MCI Telecommunications Company.

<sup>3/</sup> See, e.g., Comments of PhoneTel, Comments of Advanced Telecommunications Corporation, Americall Systems, Inc. and First Phone of New England, Inc., and Joint Comments of Cleartel Communications, Inc. and Com Systems, Inc.

LECs jointly provided long distance service on an integrated monopoly basis.<sup>4/</sup>

II. THE COMMISSION HAS JURISDICTIONAL  
AUTHORITY TO ADOPT REASONABLE  
ACCEPTANCE REQUIREMENTS FOR CIID  
AND SIMILAR CALLING CARDS

In addition to its generalized objections to making validation of its CIID cards available to other carriers (except for those with whom it agrees to share that validation data -- the LECs), AT&T asserts that the Commission lacks jurisdiction under Title I or II of the Communications Act to grant the proposed relief.<sup>5/</sup> This is simply incorrect. AT&T's entire basis of authority for its conclusion that the Commission lacks jurisdiction is the Commission's 1986 billing and collection detariffing order.<sup>6/</sup> In that order, the Commission concluded that LEC billing and collection service should no longer be subject to common carrier regulation under Title II of the Act. Contrary to AT&T's implication, the Commission did not conclude that it lacked Title I authority. Indeed, the Commission concluded that it retained jurisdiction over LEC billing and collection, although it elected not to exercise that jurisdiction at that time.<sup>7/</sup>

Moreover, the Commission's proposals regarding proprietary calling cards in general and CIID cards in particular do not involve billing and collection services. Rather, they

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4/ See, e.g., Comments of Bell Atlantic, Comments of NYNEX, Comments of GTE Corporation.

5/ Comments of AT&T at 4.

6/ Detariffing of Billing and Collection Services, 102 FCC2d 1150 (1986).

7/ Id., at 1169-1171.

involve access to validation databases and to availability of billing information -- not billing service. In the Cincinnati Bell proceeding <sup>8/</sup> and in Docket No. 91-115 <sup>9/</sup>, the Commission has held that access to calling card validation data is within the ambit of Title II's scheme for the regulation of common carrier services. As for the provision of information necessary to bill customers, the Commission never has indicated that provision of that information is not subject to its jurisdiction. For example, in the reconsideration order affirming the detariffing of billing and collection, the Commission indicated its "expectation" that billed name and address information would be made available to interexchange carriers at reasonable prices.<sup>10/</sup> More recently, the Commission has solicited further comment on availability of this essential billing information.<sup>11/</sup>

As AT&T notes in its comments, in its May 8, 1992 decision in Docket No. 91-115, the Commission concluded that AT&T CIID cards are not "LEC Joint Use Cards." However, that conclusion, based on the record in that proceeding, does not undermine the Commission's jurisdictional authority over access to calling card validation data bases and does not preclude the

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8/ Cincinnati Bell Telephone Company, 6 FCC Rcd 3501 (1991), pet. for recon. pending.

9/ Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, FCC 92-168, released May 8, 1992.

10/ Detariffing of Billing and Collection Services (Reconsideration), 1 FCC Rcd 445,446 (1986).

11/ Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, supra, FCC 92-168, at paras 58-59.

Commission from ordering the relief proposed in the Notice or from ordering other appropriate relief in order to prevent AT&T -- or any other carrier -- from implementing calling card issuance and acceptance practices in a manner designed to impede competition, reduce consumer choice and remonopolize the market for 0+ services.

III. TO ACCORD PROPRIETARY STATUS TO  
CIID CARDS WOULD UNDERMINE THE  
OBJECTIVES OF TOCSIA AND THE  
COMMISSION'S OPERATOR SERVICE RULES

Those parties who advocate that CIID cards should be accorded proprietary card status and that they should be usable on a 0+ basis ignore the fact that those cards and the practices now associated with those cards are entirely inconsistent with the public interest objectives which underlie the Telephone Operator Consumer Services Improvement Act ("TOCSIA") and the Commission's operator services rules. Passage of TOCSIA and promulgation of the Commission's OSP rules occurred as a result of public anger over certain practices which were occurring in the provision of operator services. Telephone aggregators (pay phone owners, hotels and motels, etc.) were entering into agreements with IXCs to route operator-assisted long distance calls from their premises to those IXCs in exchange for commission payments or other compensation. In order to maximize that compensation, premises owners would limit access to IXCs other than those from whom they were receiving compensation.

What those aggregators were doing was not unusual. In other contexts, it is a common occurrence for premises owners to grant franchises to providers of products and services and to limit access to other providers of those products or services. For example, many hotels and motels offer exclusive franchises to

caterers, dry cleaners, sundry shop owners -- even to pizza delivery services. Those exclusive franchisees often charge higher prices than others who provide the same products or services. This is almost always accepted by guests of the franchisor (e.g., a hotel). Hotel guests may not like having to deal with one dry cleaner or one provider of room service dining and they may not like the higher prices charged, but they rarely assert a right to receive those products or services from others.

Telephone service, however, is different. In response to the limited consumer choice and high prices brought about by the aforementioned relationships between aggregators and IXCs, Congress enacted TOCSIA and the Commission adopted rules. As a result, aggregators can no longer award an exclusive franchise to an IXC. Consumers have a right to know which IXC will carry their operator-assisted calls and what rates will be charged. Also, they have the right to utilize unblocked access codes to reach the IXC of their choice, not the aggregators'.

What is different about public telephone service that causes it to be viewed so differently than the other products and services made available by premises owners and aggregators? Unlike dry cleaning, sundries and room service, telephone service historically has been viewed as a public utility activity -- to which the public is entitled to receive service at just and reasonable rates. With the development of a competitive telecommunications industry structure over the past several decades, consumers also have become entitled to choose their service provider from among the many competing to serve them. Attempts to limit availability of telephone service have never been favored nor have attempts to limit consumer selection of the providers of those services, particularly interexchange services.

Government's response to attempts to limit consumer choice and to extract perceived unreasonably high prices led to TOCSIA and the Commission's OSP rules.

It is against this backdrop that AT&T's CIID card practices and the Commission's proposals regarding so-called "proprietary" calling cards should be viewed. By flooding the market with millions of CIID cards accompanied by promotional literature containing false and misleading information and then refusing to allow access to those cards' database to any service provider except its former long distance partners -- the LECs, AT&T is attempting to do precisely what TOCSIA and the Commission's rules were implemented to undo.

To the extent that AT&T's effort to replace millions of line-based and Regional Accounting Office-based calling cards with CIID cards is successful, consumers (i.e., the millions of holders of those cards, many of whom never asked for such cards but received them "automatically" by virtue of their status as a holder of a LEC calling card) will be blocked from using the services of any other IXC -- irrespective of price, irrespective of consumers' perceptions of service quality and features, and irrespective of consumer preference for and familiarity with 0+ dialing.

As PhoneTel noted in its initial comments, it has no objection to AT&T or any other carrier issuing proprietary calling cards and according those cards proprietary treatment -- provided that they are truly proprietary.<sup>12/</sup> AT&T's CIID cards are not proprietary cards. Use of those cards is not limited to the services of the issuing carrier. Rather, they are acceptable

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<sup>12/</sup> See Comments of PhoneTel at 11-12.

by approximately 1,400 LECs in addition to AT&T. CIID cards are not the creation of the issuing carrier's proprietary numbering plan. Instead, they are a product of the CIID code plan created by the Bell Operating Companies. Six of the digits on a CIID card are directly assigned by Bell Communications Research ("Bellcore") as part of Bellcore's administration of the North American Numbering Plan -- which it administers, not on behalf of the BOCs or AT&T, but on behalf of all telecommunications service providers and users as a public resource. Finally, CIID cards today are not limited to proprietary access dialing arrangements. In short, there is nothing proprietary about AT&T's CIID cards and proprietary treatment of those cards is entirely unwarranted. Nothing in the initial comments refutes that most basic premise.

IV. IN ADDITION TO ITS PROPOSALS, THE  
COMMISSION SHOULD LIMIT CIID CARDS TO  
ACCEPTANCE BY THE CARD ISSUER UNLESS  
THEY ARE AVAILABLE FOR VALIDATION BY ALL  
CARRIERS DESIRING TO DO SO

PhoneTel agrees with the proposal advanced by the Commission in the Notice, i.e., that AT&T CIID cards and other comparable cards either be available for validation by other IXC's or that those cards be limited to access code dialing. AT&T's opposition to the first prong of the Commission's proposal is unqualified. As it stated in its comments, ". . .there is no circumstance in which AT&T could envision making its calling card data available for validation and billing by its OSP competitors."<sup>13/</sup> Several commenters noted that there would be difficulties implementing the second prong since, under current dialing arrangements, IXC's do not receive the calling card information until after the call reaches the IXC and that the IXC

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<sup>13/</sup> Comments of AT&T at 5.



does not receive information as to whether the call was initiated on a 0+ or 10XXX dialing basis.

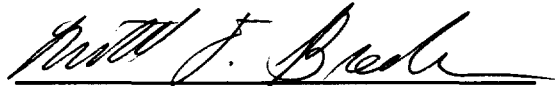
In response to these concerns, PhoneTel suggests another alternative. Stated simply, PhoneTel believes that issuers of CIID cards should be absolutely prohibited from allowing any carrier -- LEC or IXC -- from validating its CIID card data base unless non-discriminatory access to that data base is afforded all carriers -- LEC and IXC. In other words, if CIID cards are to be considered to be proprietary, they should be completely proprietary, not partially proprietary. Under this approach, some calling cards, e.g., LEC line-based cards, would be universal cards since they could be used in connection with the local and intraLATA services of the LEC and the interLATA services of any IXC. IXC CIID cards would, as claimed by their issuers, be proprietary cards, since they could only be available with the services of that IXC.

Concerns that adoption of this proposal might cause consumer inconvenience are misplaced. Consumers would be free to choose between such universal cards and proprietary cards. Those consumers desiring the convenience of one card for all of their 0+ calling could utilize any of the nonproprietary cards available to them, including LEC line-based cards. Those who wish to use the services of one IXC for all of the interLATA 0+ calling could use their preferred IXC's proprietary card. Those who use calling cards for local and long distance services and prefer to carry a proprietary card may elect to carry both. Of course, any IXC that desires to enable its calling cards to be usable for local and intraLATA services provided by LECs could do so simply by permitting validation of those cards by other IXCs.

CONCLUSION

WHEREFORE, for all of the foregoing reasons, PhoneTel respectfully urges the Commission to limit the acceptance of proprietary calling cards, including CIID cards, in accordance with the views expressed herein and in PhoneTel's initial comments in this proceeding.

Respectfully submitted,  
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June 17, 1992

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **REPLY COMMENTS OF PHONETEL TECHNOLOGIES, INC. ON PROPRIETARY CALLING CARDS AND 0+ ACCESS** of Phonetel Technologies, Inc. were sent via hand delivery or first-class mail, postage prepaid, on this the 17th day of June, 1992, to the below-listed parties:

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